

REMARKS

These remarks are in response to the Office Action dated August 27, 2007. Claims 40-79 and 81-85 were pending in the application at the time of examination.

In the Office Action, the Examiner objects to claims 44 and 56 for minor informalities.

Claims 57, 59, 62, 65, 66, 70 and 71 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

Claims 40-58, 73-79 and 81-85 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. Pub. No. 2003/0009401 ("Ellis").

Claims 59-61 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ellis in view of U.S. Pat. No. 5,237,507 ("Chasek").

Claims 62-65 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ellis in view of Int'l Pat. Pub. No. WO 95/26065 ("Williams").

Claims 66, 70 and 71 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ellis in view of U.S. Pat. No. 5,289,362 ("Liebl").

Claims 67-69 and 72 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The rejections from the Office Action dated August 27, 2007 are discussed below. No new matter has been added. Reconsideration of the application is respectfully requested in light of the following remarks.

I. OBJECTIONS TO CLAIMS 44 AND 56

Claim 44 is objected to because the acronym "MIPS" is not written out in its full form, at least on its first appearance in the claims. In response, applicants have amended claim 46 to recite the full term "Million Instructions Per Second," and respectfully request that the objection to claim 44 be withdrawn.

Claim 56 is objected to because the Examiner suggest that the word "id" was a typographical error. Applicants submit that this was not a typographical error. Rather, applicants' specification explains the "Meta Data 128 can include billing period id, cost center id, geographic location, address or ZIP code." (see, e.g., applicants' specification at paragraph

0031). However, solely for clarification, applicants have changed the term "id" to "identifier," and respectfully request that the objection to claim 56 be withdrawn.

II. REJECTIONS UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

The Examiner has rejected claims 57, 59, 62, 65, 66, 70 and 71 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. Claims 57, 59, 62, 66, 70 and 71

The Examiner objects to claims 57, 59, 62, 66, 70 and 71 because they use the terms "Flat Distribution," a "Weighted Distribution," a "Zeroing Distribution," a "Slicing Distribution," a "Slicing Distribution with Price Tiers," and a "Tiered Distribution," respectively. Although these terms are fully explained in the specification, the Examiner asserts that it is unclear what limitations these claims contain and alleges that "a thorough examination is impossible." (see Office Action dated August 27, 2007, at page 3).

In response, applicants have amended each of claims 57, 59, 62, 66, 70 and 71, and therefore respectfully request that the rejections to these claims under 35 U.S.C. § 112, second paragraph be withdrawn.

B. Claim 65

The Examiner alleges that the use of "substantially" in claim 65 renders the claim indefinite. Solely for clarification, applicants have removed the term substantially. Support for this amendment may be found at least with respect to paragraphs 48, 51 and 54 of applicants' specification. Accordingly, applicants request that the rejection to claim 65 under 35 U.S.C. § 112, second paragraph be withdrawn.

III. REJECTIONS UNDER 35 U.S.C. § 102

A. Rejections to Independent Claims 40 and 82

Independent claims 40 and 82 are rejected as anticipated by Ellis. Independent claims 40 is directed to a rate engine and originally required "an input module operative to accept utility data, rate data and time data, the time data including at least one logging interval; a processing module coupled with the input module and operative to compute at least one cost based on the

utility data and rate data, the at least one cost being associated with the at least one logging interval; and an output module coupled with the processing module and operative to output the at least one cost.”

Independent claim 82 is directed a system for calculating the per logging interval cost of a utility, the system comprising a rate engine. The rate engine comprises limitations that are similar to those listed with respect to independent claim 40.

Solely for clarification, applicants have amended independent claim 40 to recite “the time data including a time interval composed of at least one logging interval,” and claim 82 has been similarly amended. Further, claim 40 has been amended to include the limitation “*wherein the output comprises one or more time intervals with the at least one cost associated with each time interval*,” and claim 82 has been similarly amended. Support for applicants’ amendments may be found throughout the specification. (see, e.g., applicants’ specification at paragraph 20, 33 and 68; FIGS. 1B, 2, 6A, 6B). For example, applicants’ specification explains “[t]he Time Data 126 defines a time interval composed of one or more logging intervals....” (see, e.g., applicants’ specification at paragraph 130). Applicants’ specification further explains “[t]he output 140 may be one or more time intervals, with a cost associated with each time interval.” (see, e.g., applicants’ specification at paragraph 20; FIG. 1B). Further, in one exemplary embodiment, “[w]here the Time Data 126 defines more than one logging interval, the Output 140 includes multiple logging intervals and their associated costs as is shown in table 144.” (see, e.g., applicants’ specification at paragraph 33; FIG. 1B). Indeed, as shown in FIG. 1B, each time interval $t_1 - t_N$ has a cost associated with its time interval.

Applicants respectfully submit that Ellis neither teaches nor suggests a rate engine or a system “*wherein the output comprises one or more time intervals with the at least one cost associated with each time interval*.” The Examiner generally cites to paragraphs 323-325 and 328 of Ellis in rejecting independent claims 40 and 82. (see Office Action dated August 27, 2007, at pages 4 and 7-8). However, none of these paragraphs, or other paragraphs in the Ellis specification, teach or suggest at least one cost associated with each time interval. Ellis generally teaches that a user may determine actual usage, forecast usage and cost estimates by selecting a billing period 601, a tariff 602, state taxes 619 or city taxes 621 (see, e.g., Ellis paragraphs 03330-0335; FIG. 6A). The customer effectively therefore “may adjust particular

information, do an analysis, and obtain an estimate of a forecast or actual billing statement for a particular time period." (see Ellis at paragraph 0344).

In sharp contrast, by having a rate engine or a system "*wherein the output comprises one or more time intervals with the at least one cost associated with each time interval*," cost analyses can be performed on an interval basis. Applicants' invention allows a cost associated with a first time interval (e.g., an hour), a cost associated with a different time interval (e.g., a day), and a cost associated with multiple other time intervals, and then provides an output that "*comprises one or more time intervals with the at least one cost associated with each time interval*." Applicants' invention of claims 40 and 82 is therefore a significant improvement relative to the system disclosed by Ellis, which does not teach or suggest at least one cost associated with each time interval, wherein the output comprises one or more time intervals.

Accordingly, Ellis does not teach each and every limitation of amended claims 40 and 82. For at least these reasons, applicants submit that independent claims 40 and 82 are in condition for allowance.

B. Rejections to Independent Claim 81

Independent claim 81 is rejected as anticipated by Ellis. Independent claim 81 originally required "[a] system for calculating the per logging interval cost of a utility, comprising: means for accepting utility data, rate data and time data from a data source, the rate data comprising a plurality of charges, the time data comprising a plurality of logging intervals; means for computing a plurality of costs based on the utility data and rate, each of the plurality of costs being associated with one of the plurality of logging intervals; and means for outputting the plurality of costs."

Applicants have amended independent claim 81 to include a limitation similar to dependent claim 55. More specifically, amended claim 81 presently recites "wherein the means for accepting accepts meta data and the means for outputting outputs the meta data with the plurality of costs." Applicants respectfully submit that both dependent claim 55 and amended independent claim 81 are allowable over Ellis.

With regard to the rejection to dependent claim 55, the Examiner states "Ellis further teaches the input module accepts meta data (¶ 0321) and the output module outputs the meta data

with the plurality of costs (¶ 0339).” (see Office Action dated August 27, 2007, at page 5). However, the term “meta data” is nowhere to be found in Ellis. Rather, paragraph 321 of Ellis explains that “*meter information* coming into the billing engine 401 may be received coincident with the monthly billing cycle, or at a more or less frequent interval. The *meter information* can be processed....” (see Ellis, paragraph 321; emphasis added). There is a significant difference between the “*meter information*” provided by Ellis and the “meta data” as recited in applicants’ independent claim 81 and dependent claim 55.

With regard to “*meter information*,” Ellis explains that “[i]n addition to power component information, meter information may reflect other information as well. This additional meter information may include, depending on the meter device, time of use, peak demand, load, power outage information, voltage, current, and power factor.” (see, e.g., Ellis at paragraph 0013). Further, “the meter information may be acquired by periodic polling, acquiring on-demand, collected from the utility billing meter, and/or from some other system that collects meter information....” (see, e.g., Ellis at paragraphs 313-315). In sum, the “*meter information*” described by Ellis relates to meter data, not “meta data,” as recited by applicants’ claims 81 and 55.

By contrast, applicants’ specification teaches that “Meta Data 128 includes any other data that is used to describe, categorize or otherwise identify the Utility Data 122, Rate Data 124 and Time Data 126. Meta Data 128 can include billing period id, cost center id, geographic location, address or ZIP code.” (see, e.g., applicants’ specification at paragraph 0031; FIG. 1B). Therefore, applicants’ meta data describes, categorizes, or otherwise identifies *other data*, such as utility, rate and time data. Ellis neither teaches nor suggests such meta data that is *capable of describing, categorizing, or otherwise identifying other data*, such as utility, rate and time data.

Since such meta data is never input into the device of Ellis, amended independent claim 81 is allowable for at least this reason. Moreover, dependent claim 55 also is allowable for at least the reasons set forth above with respect to amended independent claim 81.

IV. REJECTIONS TO DEPENDENT CLAIMS 41-79 AND 83-85

For at least the reasons set forth above, applicants respectfully submit that independent claims 40, 81 and 82 are in condition for allowance. Since independent claim 40 is allowable, dependent claims 41-79 are also in condition for allowance for at least the reasons set forth above. Since independent claim 82 is allowable, dependent claims 83-85 are also in condition for allowance for at least the reasons set forth above.

V. NEW CLAIM 86

Applicants have added new dependent claim 86, which ultimately depends from claim 40. Dependent claim 86 recites “[t]he rate engine of claim 46, wherein the hypothetical data comprises at least one of past data, future data, scaled data, shifted data, estimated data, edited data, modeled data, and normalized data.” Applicants submit that Ellis neither teaches nor suggests hypothetical data, and more specifically, hypothetical data that comprises at least one of past data, future data, scaled data, shifted data, estimated data, edited data, modeled data, and normalized data.

For at least this reason, applicants respectfully submit that new claim 86 is allowable.

CONCLUSION

Each of the matters in the Office Action dated August 27, 2007 has been addressed and no new matter has been added. Applicants submit that all of pending claims 40-79 and 81-86 are in condition for allowance and notice to this effect is respectfully requested. The Examiner is invited to contact the undersigned attorney if such communication would expedite the prosecution of this application.

Respectfully submitted,

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